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THE NPT AND IRAN A CASE OF DOMESTIC AND BUREAUCRATIC POLITICS

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THE NPT AND IRAN A CASE OF DOMESTIC AND BUREAUCRATIC POLITICS

The nonproliferation of weapons of mass destruction particularly nuclear weapons, has been a major element in the foreign policy of the Clinton Administration. For this reason, the Administration placed considerable emphasis on obtaining the indefinite extension of the Nuclear Non-Proliferation Treaty (NPT) on the occasion of its 25-year review and extension in April-May 1995. For a range of foreign policy reasons, including nuclear nonproliferation, another clear and important goal of the Administration has been "dual containment" of both Iran and Iraq. This paper will consider the process of implementing these two policies in the run-up to both the NPT Review and Extension Conference and the announcement of a complete trade and investment embargo on Iran, two events that occurred at the same time. It will demonstrate how bureaucratic and domestic political factors helped lead the Administration to take action on one policy, containing Iran, that could have jeopardized success on the second, NPT extension, and seek to draw some lessons from that experience.

Priority, Indefinite Extension of the NPT

In September 1993, President Clinton announced the results of his administration's review of U.S. nonproliferation policy. The policy included the following element: "The U.S. will make every effort to secure the indefinite extension of the Non-Proliferation Treaty in 1995."¹ U.S. support for this objective was not new, but it was significant that the President had made it such a high priority. While the interagency process to support the objective was somewhat slow to get up and running, in 1994 an NPT Task Force was formed to bring together the agencies involved in NPT policymaking (Arms Control and Disarmament Agency, Departments of Commerce, Defense, Energy, and State, Joint Chiefs of Staff, Nuclear Regulatory Commission). Under the impetus of the President's emphasis on indefinite extension, the process operated relatively smoothly, with agencies effectively bringing their resources and expertise to bear on the problem of organizing for the 1995 NPT Extension Conference and the Preparatory Committee (Prepcom) meetings that led up to it.

Just before the Conference, both the President and Secretary of State reiterated the priority they attached to this policy. On March 1, 1995, the President told an audience at the Nixon Center: "Imagine the dangers our children and grandchildren will face if we do not continue to do everything in our power to reduce the threat of

¹ The White House, Office of the Press Secretary, "Fact Sheet: Nonproliferation and Export Control Policy," September 27, 1993, 3.

nuclear arms. Nothing is more important to prevent the spread of nuclear weapons than extending the Treaty indefinitely and unconditionally.² Achieving such an extension required obtaining agreement among the 173 members of the Treaty, through consensus if possible, but at least through a large majority. To that end, shortly before the Conference began Secretary of State Warren Christopher invited embassy representatives from NPT member countries to the State Department to tell them

We are seeking the support of your countries for (the NPT's) indefinite and unconditional extension. Every yes vote at the Review Conference tips the balance further in favor of those who seek to settle disputes through the instruments of peace, not the tools of mass destruction.³

The chief obstacle to reaching this objective was criticism on the part of some NPT parties, principally developing countries, that the Treaty discriminates against those countries not possessing nuclear weapons and those with small or nonexistent nuclear energy capabilities. This view led them to criticize implementation by the nuclear weapon states of the Treaty's provisions committing the latter not to assist other states to acquire nuclear weapons and calling for negotiations leading to a cessation of the nuclear arms race. Among other charges, these critics also attacked nuclear supplier states for not fulfilling the NPT's promise of the "fullest possible exchange of goods and information for the peaceful uses of nuclear energy." In their view, such shortcomings of Treaty implementation suggested that it should be extended for only a fixed period of time (say, 25 years) after which further extension could be reviewed in the light of efforts to improve implementation in these areas.

One of the NPT parties most vocal in making these arguments was Iran. In part because of evidence that Iran was seeking nuclear weapons, the U.S. had adopted its policy of containment, which included an effort to prevent Iran from participating in trade that would contribute to its military capabilities. While the U.S. had not been able to persuade its allies and other developed countries to restrict trade with Iran as severely as had Washington, exports of sensitive items like nuclear materials, equipment and technology were barred by virtually all developed countries. This situation led Iran to complain bitterly that it was being denied the very nuclear

² "President William Jefferson Clinton, Address to the Nixon Center for Peace and Freedom Policy Conference," Washington, D.C., March 1, 1995, 6-9.

³ Warren Christopher, "Secretary's Remarks to the Washington Diplomatic Community," April 5, 1995, 1.

cooperation that was provided for in the NPT. Iran was also sharply critical of nuclear weapon states for slow progress in working to end the arms race and for allegedly assisting other countries, Israel in particular, to obtain nuclear weapons.⁴

Iran's dissatisfaction with NPT implementation was particularly manifested at the Third Prepcom in September 1994.⁵ Focusing on the issue of nuclear cooperation, the Iranian delegation sought agreement on procedures that would place the review of nuclear supplier efforts to control exports in the context of the NPT's nuclear cooperation provision, thereby increasing its opportunities for criticizing these efforts. When the nuclear suppliers resisted Iran's procedural initiatives, the Iranians obstructed agreement on the overall agenda and rules for the Conference, the main purpose of the Third Prepcom. This action, according to members of the U.S. NPT delegation, jeopardized the entire Conference. Although these matters were resolved in time for the Conference in April 1995, Iran remained critical of the Treaty and active in promoting its views among fellow members of the Non-Aligned Movement (NAM), which represented 111 of the 173 members of the NPT. Consequently, as the Conference approached, the U.S. viewed Iran as one of its most difficult obstacles in attaining the vital national objective of indefinite NPT extension.

Priority Containment of Iran

The dual containment policy was initially described in public in a May 1993 speech by Martin Indyk, Special Assistant to the President for Near East and South Asian Affairs. Indyk stated that the U.S. objective in the region was to "counter both the Iraqi and Iranian regimes" and that "we will not need to depend on one to counter the other," as we often had in the past. He described Iran's quest for weapons of mass destruction as one of several reasons why it represents a challenge to the U.S. and the international community.⁶ The policy was elaborated on in Foreign Affairs magazine by Anthony Lake, Assistant to the President for National Security Affairs, who wrote that

⁴ A good articulation of these views is found in "Statement by His Excellency Dr. Ali Akbar Velayati, Minister for Foreign Affairs of the Islamic Republic of Iran before 1995 Review and Extension Conference of States Parties to the Treaty on Non-Proliferation of Nuclear Weapons," New York, April 21, 1995.

⁵ The author would like to thank the following members of the NPT delegation for providing their views on the subjects discussed in this paper: Thomas Graham, Special Representative of the President for Arms Control, Nonproliferation, and Disarmament; Lawrence Scheinman, Assistant Director for Nonproliferation and Regional Arms Control, U.S. Arms Control and Disarmament Agency (ACDA); and Michael Rosenthal, Chief, Nuclear Safeguards and Technology Division, ACDA.

⁶ The Washington Institute for Near East Policy, "Special Report: Clinton Administration Policy toward the Middle East," Policy Watch, May 21, 1993.

in Iran "a revolutionary regime remains engaged in outlaw behavior." However, he held out a small carrot to Iran by writing that "more normal relations are conceivable, once it demonstrates its willingness to abide by international norms and abandon policies and actions inimical to regional peace and security." He added that while the U.S. would work with friendly governments to prevent Iran from procuring sensitive items, "this does not mean Washington intends to quarantine Iran or deny it all military-related goods," since some are "defensive items that do not affect the regional security environment."⁷

The key to making this policy work, as acknowledged by Lake and Indyk, was the support of such "friendly governments" in helping to contain Iran, in particular by refusing to supply it with "sensitive items." However, the U.S. took a more draconian approach to containing Iran than did most other countries, refusing to supply it with any commodity controlled under U.S. export control law and barring imports from Iran, including oil (though U.S. oil companies were permitted to buy Iranian oil for shipment to other markets). Other friendly governments, while agreeing that irresponsible Iranian behavior warranted caution in supplying sensitive items, did not accept that such restrictive measures were needed and pursued increased trade with Iran in other areas. Moreover, in the face of strong international -- particularly U.S. -- pressure, China and Russia demonstrated a willingness to supply Iran conventional weapons, nuclear power reactors, and other important trade. By late 1994, it was becoming clear that, despite the strength of U.S. anti-Iran measures, failure of other countries to adopt similar measures meant that containment was not working to change Iranian behavior.⁸

This flaw in U.S. policy was also noticed by members of Congress. Lacking the clear threat of the Soviet Union that featured the Cold War, many members of Congress were searching for a new adversary on which to base their concept of the international environment (as were other Americans). Iran fit the bill nicely. Some members took the view that the U.S. must take every measure possible to make the dual containment policy work, even at the expense of U.S. business. And some represented the growing tendency of Congress to seek to impose U.S. policy and law on other countries as a means of pursuing our foreign policy objectives, regardless of the certain negative affect of such extraterritoriality on relations with these countries.

⁷ Anthony Lake, "Confronting Backlash States," 73 *2 Foreign Affairs* (1994) 50, 53.

⁸ The author would like to thank the following participants in U.S. policy toward Iran for their views: Frances Culpepper, Deputy Director, Office of Northern Gulf Affairs, Bureau of Near East Affairs; and Elizabeth Ward, formerly Special Assistant, Regional Affairs, Bureau of Near East Affairs.

In the case of Iran, these attitudes were manifested in similar legislation placed before their respective houses by Senator Alfonse D'Amato and Congressman Peter King, both Republicans. The proposed legislation would have prohibited not only U.S. companies and their foreign subsidiaries, but also other foreign firms from doing business with Iran. Under the legislation, foreign firms that traded with Iran would be barred from doing business in the U.S. Given Israel's serious concerns about Iranian hegemonic ambitions and support for terrorism, these bills were being promoted by the powerful American Israel Public Affairs Committee (AIPAC). According to Executive Branch officials, the legislation risked relations with the countries involved but stood a reasonable chance of passage because of strong anti-Iranian sentiment in Congress. Other relevant legislation included House Speaker Newt Gingrich's proposal for a special intelligence fund to support a strategy, in the Speaker's words "designed to force the replacement of the current regime in Iran."⁹

Failure of the U.S. to persuade other countries to adopt a tougher policy toward Iran and the emerging congressional interest in imposing extraterritorial laws on firms from allied countries doing business with Iran led the Executive Branch to begin a review of U.S. policy toward Iran in November 1994. The desire for a modification of U.S. policy was also fueled by arguments U.S. officials were hearing from their foreign interlocutors that U.S. policy was somewhat hypocritical, given that U.S. firms were earning handsome profits on the sale of Iranian oil in foreign markets. Agencies involved in the review include the Departments of Commerce, Defense, Energy, State, and Treasury. For the most part, participants at Commerce, Defense, Energy, and State were from different offices from those officials in their agencies involved in NPT policy.

Wishing to take strong action to make containment work and to preempt the D'Amato/King legislation, the State Department staked out a tough position in favor of prohibiting U.S. companies from buying Iranian oil on the open market, investing in projects in Iran, and exporting anything to Iran (not just controlled items).¹⁰ Other agencies expressed opposition to such measures on the grounds that they were unlikely to have much effect on Iran and would certainly hurt U.S. companies.¹¹ DOD argued in favor of milder sanctions controlling exports that might

⁹ Donna Cassata, "Iran Covert Fund Proposal Delays Authorization," Congressional Quarterly 53:42 (1995) 3320.

¹⁰ Elaine Sciolino, "Christopher Proposes Tighter Curbs on Trade with Iran," The New York Times, 1 April 1995: 15.

¹¹ Sciolino 15. Robert S. Greenberger, "Clinton Officials to Study Tougher Sanctions on Iran," The Wall Street Journal, 3 April 1995: B-.

have military applications, while Commerce urged that we only take measures that we could reasonably expect other countries to accept. However, the strength of the President's desire to enforce his containment policy was demonstrated in March 1995, when he issued an executive order blocking a \$1 billion project by CONOCO Inc. to develop oil and gas fields in Iran.¹²

Cabinet-level meetings were held in early April to settle the broader question of new sanctions. In the end, the President accepted the State Department position to prohibit all trade with Iran, including overseas trade in Iranian oil, as well as all U.S. investment in Iran. Policy had thus evolved from Lake's more nuanced approach in March 1994, which contemplated the possibility of "more normal relations" and indicated a willingness to consider the transfer even of military-related goods that do not affect regional security, to a ban on virtually all economic intercourse with Iran. On April 30, President Clinton, citing as reasons Iran's pursuit of nuclear weapons and support for terrorism, announced the additional sanctions in a speech to the World Jewish Congress. In spite of the fact that part of the rationale for containment was nonproliferation and of Iran's potential to obstruct the key U.S. objective of NPT extension, those involved in NPT policy had not been involved in the Iran policy review. The NPT delegation was thus quite surprised by the announcement and concerned about its effect on the ongoing Extension Conference.

A Clash of Priorities?

The coincidence of the NPT Extension Conference and the announcement of severe new sanctions on Iran, a country that had shown itself to be a major obstacle to U.S. objectives on the NPT, raises a number of questions about the national security policy process. Did the new policy make sense? Could its announcement on April 30 have been expected to undermine U.S. efforts at the NPT Conference? Why were the two policies not better coordinated and what factors led the President to announce this policy when he did? Finally, what does all this say about the factors influencing the process and about the process itself? The first two questions will be discussed in this section, and the remaining questions in the final two sections.

Those who opposed the new sanctions argued that the consequence would be to hurt U.S. business with minimal gain for our foreign policy. They believed that as satisfying as they might be to those opposing the Iranian regime, the sanctions stood little chance of changing its behavior. First, it seemed unlikely that other countries

¹²

would follow the U.S. lead in imposing tougher sanctions. While the new policy did have some effect on such matters as the willingness of European countries to grant official credits to companies trading with Iran and of Japan to finance construction of a dam in Iran, no major government agreed to a broad trade embargo on Iran.¹³ In addition, neither Russia nor China showed any willingness to desist in their plans to sell nuclear power plants to Iran. These developments have led Senator D'Amato to resume pursuit of legislation to sanction foreign companies doing business with Iran, legislation on which the Administration is now negotiating to make sanctions discretionary. However, some version of this new bill may well be adopted.

Second, it was possible that such severe sanctions would merely strengthen the hand of the fundamentalist clerical leadership in Iran, who thrived on the unifying effect of decrying the evils of the "Great Satan," at the expense of more secular influences in Iran who were interested in contacts with the West.¹⁴ Given the widespread opposition to the new sanctions both within and outside the government resulting from these flaws in the policy, it seems particularly unfortunate that its announcement might have undermined another policy priority of the Administration.

Apart from the merits of the decision, what about its actual effect on the NPT? In spite of the high priority of NPT extension, based on interviews with some of the officials involved in both the Iran policy and the NPT, there appears to have been no consideration of the possible effect of the decision to impose new sanctions on the NPT. All seem to acknowledge, however, that the circumstances described above indicate that Iran policy could have affected the NPT. As indicated in Secretary Christopher's remarks to foreign diplomats cited above, it was important to win every vote possible. The President's speech occurred the same week that the resolution for indefinite extension was introduced at the Conference, and NPT delegation members report that several NAM delegations held back on account of their outrage about the new U.S. sanctions. Even some U.S. allies and others sympathetic to indefinite extension were miffed that they had not been given any warning about the new sanctions.

Furthermore, while Iran did not undertake procedural efforts to prevent NPT extension, as some had feared, the speech may have motivated the Iranian delegation more strongly to support an Egyptian resolution

¹³ Alan Cowell, "U.S. Fails to Enlist European Allies in Iranian Trade Embargo," The New York Times, 3 May 1995, A7; "Punishing Iran," Economist, 6 May 1995, 1.

¹⁴ The case for this perspective is made in Edward G. Shirley, "The Iran Policy Trap," Foreign Policy 96 (1994): 75-93.

singling out Israel as a non-NPT party and to press for removal from that resolution of positive references to the Middle East peace process.¹⁵ Both of these efforts were objectionable to the U.S., and the Egyptian resolution delayed final action on extending the Treaty, causing the U.S. and its allies considerable consternation. The new sanctions may also have provoked Iran to help impede the efforts of the U.S. and other delegations to get agreement on committee reviews of the Treaty that were the subject of virtual consensus.

Possible Explanations

Whatever effect the new U.S. sanctions had on the NPT Conference, though, we know that the NPT was indefinitely extended, which suggests that what was arguably an unfortunate time for the President's speech was not a major problem for the NPT. Still, one is left with the nagging question of why the process did not permit a review of the relationship between the two issues. Second, even accepting the arguments in favor of the new sanctions, could not the announcement of the policy have been delayed beyond the conclusion of the NPT Conference, a mere two weeks after the President's speech, in order to prevent any possible effect on the Conference?

Graham Allison's organizational process paradigm suggests at least part of the answer to the first question. This paradigm includes the notion that "surveillance of the multiple facets of foreign affairs requires that problems be cut up and parcelled out to various organizations" which deal with the problems in terms of the constraints they take to be most important."¹⁶ The necessary decentralization of responsibility and power makes central coordination difficult, and "projects that require several organizations to act with high degrees of precision and coordination are not likely to succeed."¹⁷ Each organization simply does what it knows how to do best, independent of the priorities of others. In the case at hand, NPT and Iran policy were clearly divided into two separate interagency processes ('organizations') which addressed their issues based only on their own "constraints," even though both had nonproliferation as at least part of their rationale. As a consequence, the two 'projects' were not coordinated and the announcement of new sanctions put U.S. NPT efforts at risk.

¹⁵ Barbara Crossette, "Consensus Seen for Indefinite Extension of Nuclear Pact," The New York Times, 7 May 1995. I21, Barbara Crossette, "Treaty Aimed at Halting Spread of Nuclear Weapons Extended," The New York Times, 12 May 1995. A1

¹⁶ Graham T. Allison, "Conceptual Models and the Cuban Missile Crisis," reprinted in Halperin and Kanter, Readings in American Foreign Policy (Boston: Little, Brown, 1973) 57, 59

¹⁷ Allison, 62

Since the policies were not coordinated, it is not surprising that the timing of the President's speech announcing the new sanctions conflicted with U.S. NPT efforts. However, there may have been domestic political factors which would have caused the speech to take place during the NPT Conference even had there been better coordination. John Tierney discusses the increased opportunities and incentives for congressional activism on foreign policy, including partisanship.¹⁸ The 104th Congress has been featured by sharp ideological clashes between congressional Republicans and the White House, and conflict has not been restricted to domestic policy. Tierney's discussion of the phenomena of increased foreign policy entrepreneurialism and of proposals to advance the policy preferences of interest groups is demonstrated by the proposals to cut off all U.S. trade and investment with Iran and sanction foreign companies doing business there, which were made by Republicans D'Amato and King and strongly supported by AIPAC. Senator D'Amato's promotion of this legislation may also be influenced by his role as chairman of the Senate Banking Committee, a committee which would be involved in assessing the results of the sanctions and thus would have its stature enhanced relative to other committees.

The precise timing of the announcement of new sanctions may well have been affected by these factors. As mentioned above, the Administration regarded the legislation as having a chance of passage, and hearings in the House on the proposed bills were scheduled the same week of the President's speech. Furthermore, the President's appearance before a Jewish organization offered him an opportunity to announce a policy that would assuredly be popular with that group and generally with the community represented by AIPAC, which was promoting the D'Amato/King bills. Tierney's analysis also points out that legislation does not even have to be adopted in order to have an effect. This is certainly the case with the proposed legislation, which has not been passed but which had a very clear impact on the President's decision to impose new sanctions.

Conclusions

This case study suggests some lessons about the national security policy process. The process factors described by analysts such as Allison and Tierney are important precisely because they are so imbedded in our system and thus hard to change. However, study of such processes and cases can help policymaking officials to work around the syncronisms that hinder the formulation of effective policies.

¹⁸ John T. Tierney, 'Congressional Activism in Foreign Policy: Its Varied Forms and Stimuli,' in David A. Deese, The New Politics of American Foreign Policy (New York: St. Martin's Press, 1994) 102-11.

First, it seems clear that there should have been some consideration of the NPT issue in reviewing policy toward Iran. Such a coordinating function is one of the chief functions of the National Security Council staff, which appears not to have recognized the possible effect of Iran policy on the NPT Conference. Even if the result of such consideration had been the same, as is likely, the timing might well have been adjusted to avoid any possible conflict with NPT efforts. And even if domestic political factors meant that the announcement of the policy had to take place during the NPT Conference, the NPT delegation could have been informed in advance so they could advise other NPT delegations.

It would not have been difficult to have involved those entities most involved in NPT policy (ACDA, State/PM) in the Iran policy review, particularly given that nonproliferation was an issue in both cases. It is unlikely that any such participation in the process would have led to a different result, but at least the President would have been informed of the connection between the two issues. It would have been even less difficult to have informed the NPT delegation in New York of the impending announcement of the new sanctions, thus avoiding the negative reactions of other NPT delegations. The general lesson is that government officials must pay more attention to the effect of their actions on other priorities, at least those related to their own areas of responsibility.

Second, the experience with the D'Amato/King legislation suggests that working with Congress to shape legislation, even (or especially) that sought by members of the other party who appear to be trying to score political points against the Administration, are more likely to work than decisions taken unilaterally by the Executive Branch to preempt proposed legislation. The new sanctions did have the effect of putting off consideration of the measures proposed by D'Amato and King. However, the continuing failure of the U.S. to win allied support for our sanctions effort has fueled congressional interest in punishing foreign companies for trading or providing credit to Iran. In September 1995, D'Amato introduced new legislation to this effect, and the Administration has been negotiating to leave the application of sanctions on foreign firms to Executive Branch discretion.

It remains to be seen whether this different strategy will produce a more effective policy. It does seem more likely to produce a result acceptable to both sides than the policy announced by the President in April but less likely than the current draft bill to aggravate U.S. allies and other friendly countries through efforts to impose U.S. law on their companies. As a general rule, such an approach would have the further benefit of avoiding public

announcements of policies designed to preempt proposed legislation, such as the new sanctions on Iran, that might jeopardize other foreign policy priorities, such as NPT extension